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7 and Solomon Capital, Inc.

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10 UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA

11 (SAN JOSE DIVISION)

12 STEVE TRACHSEL, et al.,

13 Plaintiffs,

14 vs.

15 RONALD BUCHHOLZ, et al,

16 Defendants.

Case No. C08-02248RS

**OBJECTIONS TO DECLARATION OF  
STEVE TRACHSEL SUBMITTED IN  
SUPPORT OF *EX PARTE* APPLICATION FOR  
TEMPORARY RESTRAINING ORDER**

17  
18 Defendants Ronald Buchholz, Charice Fischer, RDB Development, LLC, and Solomon  
19 Capital, Inc. hereby object to the following portions of the Declaration of Steve Trachsel, dated  
20 April 30, 2008, submitted by Plaintiffs in support of their *ex parte* Application for a Temporary  
21 Restraining Order.

22  
23 Para. 1, 2:18-22: Lack of foundation; lack of personal knowledge; hearsay; improper  
24 opinion testimony. Mr. Trachsel does not identify how he “learned” Defendants “neither qualified  
25 nor exempted themselves to be issuers or broker-dealers of securities” and the statement therefore  
26 lacks foundation, fails to display personal knowledge (FRE 602), and necessarily is based on  
27 hearsay. FRE 801(c). The statement also attempts to state a legal conclusion and is improper  
28 opinion testimony by a lay witness. FRE 701.

1        Para. 4, 2:23-26: Lack of foundation; lack of personal knowledge; hearsay. Mr. Trachsel  
2 does not identify the source of the information contained in this paragraph or establish personal  
3 knowledge (FRE 602), which necessarily must be based on hearsay. FRE 801(c); 802.

4  
5        Para. 5, 3:4-6: Improper opinion testimony. The statement that Defendant Fischer  
6 “materially misrepresented the actual return or ‘profit’” attempts to state an opinion or legal  
7 conclusion and is improper opinion testimony by a lay witness. FRE 701.

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9        Para. 5, 3:6-8: Lack of foundation; lack of personal knowledge; hearsay. The statement of  
10 what was represented to other investors is based “upon information and belief” and is inadmissible  
11 hearsay. FRE 801(c); 802. Mr. Trachsel does not identify the source of the information contained  
12 in this sentence or establish personal knowledge of it. FRE 602.

13  
14        Para. 5, 3:12-14: Hearsay; improper opinion testimony. Mr. Trachsel is attempting to  
15 recount what is contained in a document, which is hearsay. FRE 801(c); 802. Mr. Trachsel is also  
16 characterizing the financial state of the project based on the document (which he does not even  
17 attach to his Declaration), but he has not qualified himself as an expert on the issue and the  
18 testimony is improper opinion by a lay witness. FRE 701.

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20        Para. 6., 3:19-21: Lack of foundation; lack of personal knowledge; hearsay. This testimony  
21 concerning how Defendants applied the investment funds, is based “upon information and belief”  
22 and is inadmissible hearsay. FRE 801(c); 802. Mr. Trachsel does not identify the source of his  
23 information contained or establish personal knowledge of it. FRE 602.

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25        Para. 6, 3:21-23: Lack of foundation; lack of personal knowledge; hearsay; improper  
26 opinion testimony. Mr. Trachsel does not identify the source of the information contained in this  
27 paragraph or establish personal knowledge (FRE 602), which necessarily must be based on hearsay.

1 FRE 801(c); 802. The phrase “fraudulent enterprise” is improper opinion testimony by a lay  
 2 witness. FRE 701.

3  
 4 Para. 8, 4:1-3: Lack of foundation; lack of personal knowledge; improper opinion  
 5 testimony. Mr. Trachsel does not explain the basis for the conclusory statements that Plaintiffs will  
 6 suffer irreparable harm or that Defendant’s assets will be depleted. FRE 602. Such statements are  
 7 also improper opinion by a lay witness. FRE 701

8  
 9 Para. 9, 4:6-9: Lack of foundation; lack of personal knowledge; improper opinion  
 10 testimony. Mr. Trachsel does not explain the basis for the conclusory statement that Defendant  
 11 “will seek to spend, conceal, or disperse the investment funds to frustrate Plaintiffs’ legal efforts”  
 12 and the statement lacks foundation and is not shown to be based on personal knowledge. FRE 602.  
 13 The phrase “prior dishonest business dealings and concealment of funds” likewise is without  
 14 foundation or personal knowledge (FRE 602) and is improper opinion testimony from a lay witness.  
 15 FRE 701.

16  
 17 Para. 10, 4:10-11. Lack of foundation; lack of personal knowledge; improper opinion  
 18 testimony. Mr. Trachsel does not explain the basis for the conclusory statement that the cost of a  
 19 bond “is prohibitive” and the statement lacks foundation and is not shown to be based on personal  
 20 knowledge. FRE 602. The term “prohibitive” is meaningless opinion testimony given by a lay  
 21 witness. FRE 701.

22  
 23 Dated: June 5, 2008.

PINNACLE LAW GROUP, LLP

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 25 By: /s/ William W. Schofield  
 26 William W. Schofield  
 27 Attorneys for Defendants  
 28 Ronald Buchholz, Charice Fischer,  
 RDB Development, LLC,  
 and Solomon Capital, Inc.